

FILED
Clerk
District Court
Page 2MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT
SENTENCE BY A PERSON IN FEDERAL CUSTODYFor The Northern Mariana Islands
By _____

United States District Court		District of the Northern Mariana Islands	
Name (under which you were convicted):		Civil No.	
JOHN S. PANGELINAN		CV 07-0027	
Place of Confinement: Seattle Detention Center (Federal), State of Washington		Prisoner No.: 00400-005	
UNITED STATES OF AMERICA		Movant (include name under which you were convicted)	
v.		JOHN S. PANGELINAN	

MOTION

- (a) Name and location of court that entered the judgment of conviction you are challenging: U.S. District Court for the Northern Mariana Islands, 1st FIR, Horisuchi Bldg., Takanan, Saipan, Commonwealth of the Northern Mariana Islands
- (b) Criminal docket or case number (if you know): Criminal Case No. 06-00012
- (a) Date of the judgment of conviction (if you know): I believe it to be on September 27, 2006
- (b) Date of sentencing: I believe it was on January 04, 2007
- Length of sentence: One Year Imprisonment
- Nature of crime (all counts): Two counts of Obstruction of Court Order, for violation of 18 U.S.C. § 1505
- (a) What was your plea? (Check one)
 - (1) Not guilty ☒
 - (2) Guilty ☐
 - (3) Nolo contendere (no contest) ☐
- (b) If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, what did you plead guilty to and what did you plead not guilty to? N/A
- If you went to trial, what kind of trial did you have? (Check one)
 - Jury ☒
 - Judge only ☐

7. Did you testify at a pretrial hearing, trial, or post-trial hearing? Yes ☐ No ☒
8. Did you appeal from the judgment of conviction? Yes ☒ No ☐
9. If you did appeal, answer the following:
- (a) Name of court: U.S. Court of Appeals for the Ninth Circuit
- (b) Docket or case number (if you know): Docket No. 07-10032
- (c) Result: Oral argument scheduled for August 16, 2007
- (d) Date of result (if you know): Decision will probably be very soon thereafter
- (e) Citation to the case (if you know): U.S.A. v. Pangolin
- (f) Grounds raised: Insufficiency of evidence to convict Pangolin under 18 U.S.C. § 879; various trial errors by the Court, and, violation of Pangolin's 5th & 6th Amendments rights to due process under a fair trial. None of the grounds pertain to district court jurisdiction, or anything related to the issues (especially the jurisdictional ones) raised in this motion. Issues totally different and prayed reliefs are entirely different
- (g) Did you file a petition for certiorari in the United States Supreme Court? Yes ☐ No ☒

If "Yes," answer the following:

- (1) Docket or case number (if you know): N/A
- (2) Result: N/A
- (3) Date of result (if you know): N/A
- (4) Citation to the case (if you know): N/A
- (5) Grounds raised: N/A

10. Other than the direct appeals listed above, have you previously filed any other motions, petitions, or applications concerning this judgment of conviction in any court?
- Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

- (a) (1) Name of court: District Court for the Northern Mariana Islands
- (2) Docket or case number (if you know): DC Docket No. 07-0025 (Civil)
- (3) Date of filing (if you know): June 28, 2007 (mailed in prison on 6/15/07-- I believe the date I mailed it).

(4) Nature of the proceeding: Habeas Corpus motion under 28 U.S.C. § 2254

(5) Grounds raised: All the grounds raised hereunder

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☒

(7) Result: Motion denied for court's "lack of subject matter jurisdiction"

(8) Date of result (if you know): July 27, 2007

(b) If you filed any second motion, petition, or application, give the same information:

(1) Name of court: District Court for the Northern Mariana Islands

(2) Docket or case number (if you know): DC Docket No. 07-0015

(3) Date of filing (if you know): August 6, 2007 (date mailed in prison)

(4) Nature of the proceeding: Motion for reconsideration, withdrawal & continuance

(5) Grounds raised: That court had jurisdiction and that the case was excepted from 9th Circuit Court precedent under Feldman v. Herman, 815 F.2d 1318 (9th Cir. 1987) because "unusual circumstances" existed for the court to proceed with the case. District court denied Parghianian's motion without prejudice under the Feldman case.

(6) Did you receive a hearing where evidence was given on your motion, petition, or application? Yes ☐ No ☒

(7) Result: Motion is on its way to the Court

(8) Date of result (if you know): N/A

(c) Did you appeal to a federal appellate court having jurisdiction over the action taken on your motion, petition, or application?

(1) First petition: Yes ☐ No ☐

(2) Second petition: Yes ☐ No ☐

Not yet.

(d) If you did not appeal from the action on any motion, petition, or application, explain briefly why you did not: I am awaiting determination by the

District Court. Unfavorable decision will certainly be
appealed.

12. For this motion, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: District Court lacked subject matter jurisdiction in the Article III sense for obstruction of void court order issued in Civ.A. 97-0073.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Obstructed court order is void because district court in Civ.A. 97-0073 was
without Article III subject matter jurisdiction (plaintiffs (1) suffered no
injury (no standing) and (2), if injury, injury (standing) is too remote
in the presidential sense); was without personal jurisdiction over de-
fendants -- CNM's long-arm statute invalid; and, also without personal
jurisdiction for inefficiency of service of process. FACTS: (1) District court
found plaintiffs unable to be paid wages owed them by Papan, Ltd. because
assets of Papan, Ltd. were transferred to morant thereby judgment-proof
corporation. (2) CNM is not a state but a territory under complete sovereignty
of the U.S.A. (3) Service of summons and complaint was by mail only which
were received, not by individual defendants, but by their daughter etc.

(b) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒ My court-appointed attorney did not raise any
of the above issues, notwithstanding Pangelinan's warnings.

(2) If you did not raise this issue in your direct appeal, explain why: Pangelinan the issues
to be brought up in court before trial, after trial (at sentencing)
and in the appeal but Pangelinan's attorney never did.

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☒ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: It is the one mentioned above -- See questions #10-11 above.

Name and location of the court where the motion or petition was filed: U.S. District Court for
the Northern Mariana Islands, 1st Fl., Haisuchi Bldg., (Gorran), Saipan, CNMI.

of U.S. Constitution

Docket or case number (if you know): DC Docket No. 07-0005 (Civil)

Date of the court's decision: July 27, 2007

Result (attach a copy of the court's opinion or order, if available): Motion denied. Motion for reconsideration, withdrawal and continuance was mailed by Pangelinan (he believes) on August 6, 2007.

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒ and not yet

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒ and not yet

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐ N/A

(6) If your answer to Question (c)(4) is "Yes," state: N/A

Name and location of the court where the appeal was filed: N/A

Docket or case number (if you know): N/A

Date of the court's decision: N/A

Result (attach a copy of the court's opinion or order, if available): N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: The motion for reconsideration, withdrawal and continuance is probably still in the mail on its way to the court. But if rejected, appeal is certain and all these issues, plus other issues, will be raised with the appellate court.

GROUND TWO: District court lacked Article III (U.S. Constitution) subject matter jurisdiction as 18 U.S.C. § 1509 is not applicable to Pangelinan as a "party and

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

privity" to the obstructed court order: for double jeopardy guarantee, and for court's failure to exercise "least possible power to the end proposed." Facts: 1) Jury found Pangelinan as "party and privity" to the obstructed court order. 2) Pangelinan indicted by grand jury for essentially a contempt of court charge. 3) Pangelinan, before his incarceration, was already punished by the court by sale of his property in Civ. A. 93-0023 for what essentially was a contempt of court. 4) The court did not exercise "least possible power to the end proposed" for what essentially was a contempt of court.

(b) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒*My court-appointed attorney did not raise it notwithstanding the Rule 34, Fed.R.Crim.P. and pre-trial language by Pangolinian.*(2) If you did not raise this issue in your direct appeal, explain why: *Pangolinian does not**know why his attorney did not on the Rule 34 motion and on the other issues -- Pangolinian believes that other issues were not raised at trial level and, therefore, could not be raised in the appeal.*

(c) Post-Conviction Proceedings:

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☒ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: *It is the one mentioned above -- see questions #10-11 above.*Name and location of the court where the motion or petition was filed: *U.S. District Court for the Northern Mariana Islands, 1st Flr., Stoniguchi Bldg., Mangna, Saipan, CNMI*Docket or case number (if you know): *DC Docket No. 07-0025 (Civil)*Date of the court's decision: *July 27, 2007*Result (attach a copy of the court's opinion or order, if available): *Motion denied. Motion for reconsideration, withdrawal and continuance was mailed by Pangolinian (he believes) on August 6, 2007.*

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☒ *Not yet*

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☒ *Not yet*

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☒ *N/A*

(6) If your answer to Question (c)(4) is "Yes," state:

N/A

Name and location of the court where the appeal was filed:

N/A

Docket or case number (if you know):

N/A

Date of the court's decision:

N/A

Result (attach a copy of the court's opinion or order, if available):

N/A

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: N/A

REQUEST: Court is requested to grant Pangolinan leave to
access his computer, prepare, and to submit a supplemental
memorandum (argument) in support of this motion.

GROUND THREE: None

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

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(b) Direct Appeal of Ground Three: N/A

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings: N/A

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Yes ☐ No ☐

Yes ☐ No ☐

Yes ☐ No ☐

Docket or case number (if you know):

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

A large 'X' mark is drawn across the lined paper, indicating that the page is unused or crossed out.

(b) Direct Appeal of Ground Four:

N/A

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(c) Post-Conviction Proceedings:

N/A

(1) Did you raise this issue in any post-conviction motion, petition, or application?

Yes ☐ No ☐

(2) If your answer to Question (c)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion, petition, or application?

Yes ☐ No ☐

(4) Did you appeal from the denial of your motion, petition, or application?

Yes ☐ No ☐

(5) If your answer to Question (c)(4) is "Yes," did you raise this issue in the appeal?

Yes ☐ No ☐

(6) If your answer to Question (c)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (c)(4) or Question (c)(5) is "No," explain why you did not appeal or raise this issue: _____

13. Is there any ground in this motion that you have not previously presented in some federal court?

If so, which ground or grounds have not been presented, and state your reasons for not

presenting them: NONE

REQUEST: Pangelinan requests that this motion be entertained by someone other than Judges Munson and Wisconsin. The public ^{was} made aware by Pangelinan's (by which he was convicted) letter to the editor of huge lawsuit coming to those who injured him. These judges are potential defendants to the lawsuit. They cannot, or can hardly, be impartial to this motion.

14. Do you have any motion, petition, or appeal now pending (filed and not decided yet) in any court for the judgment you are challenging? Yes ☒ No ☐ Oral argument scheduled for August 16, 2007.

If "Yes," state the name and location of the court, the docket or case number, the type of

proceeding, and the issues raised. U.S. Court of Appeals for the Ninth Circuit, San Francisco, California, Doc. No. 07-10032. I do not know the type of proceeding it is but I suppose it is just a regular one. I believe that a decision will issue almost immediately after hearing and will very likely be before this motion is received for entertainment and consideration.

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Steven P. Pixley, Attorney at Law, 2nd Fl., CJC Centre, Beach Road, Garapan, P.O. Box 7757 S.V.R.B., Saipan, MP 96950

(b) At arraignment and plea: Ditto

(c) At trial: Ditto

(d) At sentencing: Ditto

(e) On appeal: Ditto

(f) In any post-conviction proceeding: None. I "appealed" pro se.

(g) On appeal from any ruling against you in a post-conviction proceeding: None. I appealed as pro se.

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time? Yes ☐ No ☒ Sentenced to two counts to be served concurrently.

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

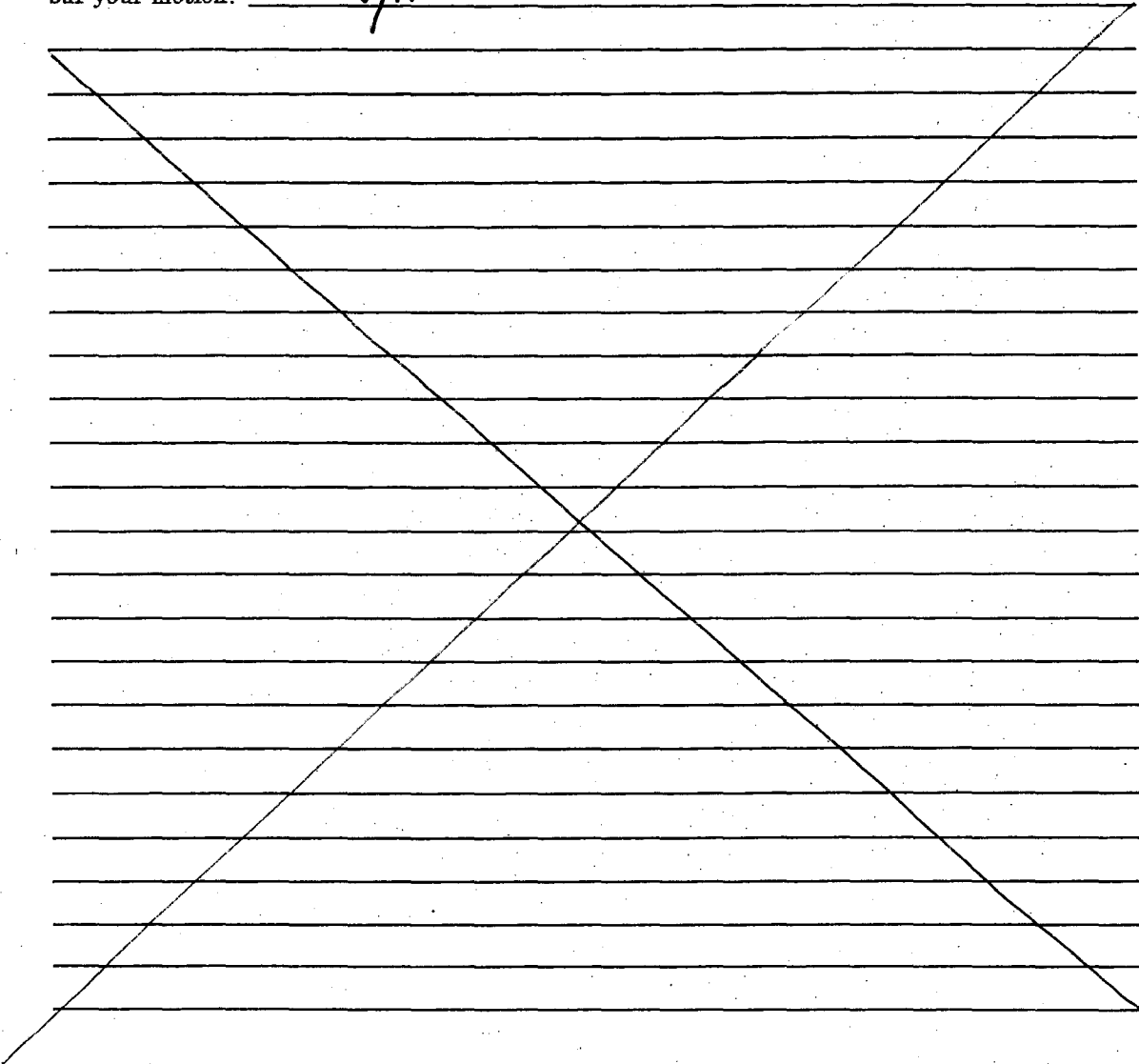
(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: N/A

(c) Give the length of the other sentence: N/A

(d) Have you filed, or do you plan to file, any motion, petition, or application that challenges the judgment or sentence to be served in the future? Yes ☐ No ☒ N/A

18. TIMELINESS OF MOTION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2255 does not bar your motion.* N/A



* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2255, paragraph 6, provides in part that:

A one-year period of limitation shall apply to a motion under this section. The limitation period shall run from the latest of —

- (1) the date on which the judgment of conviction became final;
- (2) the date on which the impediment to making a motion created by governmental action in violation of the Constitution or laws of the United States is removed, if the movant was prevented from making such a motion by such governmental action;
- (3) the date on which the right asserted was initially recognized by the Supreme Court, if that right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or
- (4) the date on which the facts supporting the claim or claims presented could have been discovered through the exercise of due diligence.

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Therefore, movant asks that the Court grant the following relief: vacate and set aside judgment
in, and dismiss, Crim. A. 06-00012; issue writ of coram nobis or declaratory

judgment under 28 U.S.C. § 2201, 2202 vacating and setting aside judgment in Crim. A.
#04-00015 or any other relief to which movant may be entitled, and vacating and setting aside final judgment,
under 28 U.S.C. § 2201, 2202, in Civil Action No. 97-0073, and dismissing it
altogether.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Motion under 28 U.S.C. § 2255 was placed in the prison mailing system on August
10, 2007 (month, date, year), first class postage prepaid.

Executed (signed) on August 10, 2007 (date).

J.D. / R
Signature of Movant

If the person signing is not movant, state relationship to movant and explain why movant is not
signing this motion. _____

**Motion to Vacate, Set Aside, or Correct a Sentence
By a Person in Federal Custody**

(Motion Under 28 U.S.C. § 2255)

Instructions

1. To use this form, you must be a person who is serving a sentence under a judgment against you in a federal court. You are asking for relief from the conviction or the sentence. This form is your motion for relief.
2. You must file the form in the United States district court that entered the judgment that you are challenging. If you want to challenge a federal judgment that imposed a sentence to be served in the future, you should file the motion in the federal court that entered that judgment.
3. Make sure the form is typed or neatly written.
4. You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
5. Answer all the questions. You do not need to cite law. You may submit additional pages if necessary. If you do not fill out the form properly, you will be asked to submit additional or correct information. If you want to submit a brief or arguments, you must submit them in a separate memorandum.
6. If you cannot pay for the costs of this motion (such as costs for an attorney or transcripts), you may ask to proceed *in forma pauperis* (as a poor person). To do that, you must fill out the appropriate form. Also, you must submit a certificate signed by an officer at the institution where you are confined showing the amount of money that the institution is holding for you.
7. In this motion, you may challenge the judgment entered by only one court. If you want to challenge a judgment entered by a different judge or division (either in the same district or in a different district), you must file a separate motion.
8. When you have completed the form, send the original and two copies to the Clerk of the United States District Court at this address:

Clerk, United States District Court for the Northern Mariana Islands
Att: Prisoner Litigation Section
P.O. Box 500867, SAIPAN, MP 96950

9. **CAUTION:** You must include in this motion all the grounds for relief from the conviction or sentence that you challenge. And you must state the facts that support each ground. If you fail to set forth all the grounds in this motion, you may be barred from presenting additional grounds at a later date.
10. **CAPITAL CASES:** If you are under a sentence of death, you are entitled to the assistance of counsel and should request the appointment of counsel.